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**International shipping in accordance with the legal status of  
the use of the straits and the Greek maritime space**

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**Abstract:** The purpose of this research is to present and evaluate the legal status that has to do with the straits in the modern law of the sea. Starting from the provisions of UNCLOS and the contentious negotiation that lasted for several years, we arrived at a legal status, which would cover the free movement of the straits, and which became one of the important stages in the development of the law of the sea. The international rules of the right to free navigation and their application within a special case that applies to the case of Greece, was a first trigger for research on what ultimately applies to the traffic and protection of the straits on a global level.

**Keywords:** international shipping; Aegean Sea; international law; law of the sea; international straits; protection of the marine environment; UNCLOS III; ICJ; transit passage.

## Introduction

The international straits, the straits of international navigation and the status of international navigation are problems that concern international law and the international community in recent years, given that in many areas the territorial claims have resulted in open issues for the imminent connections between seas, oceans despite the signature and creation of bilateral, multilateral treaties from the end of the 19th and the beginning of the 20th century<sup>1</sup>.

The international community does not have a uniform solution for the straits but has relied on UNCLOS III and Art. 16 (4) of the 1958 Geneva Convention on the Coastal Zone and the Contiguous Zone, where safe passage through usable straits is permitted, for international shipping as well as open shipping sea and a part of the high seas, the territorial sea of a third country (Churchill, Lowe, 1999). Relevant regulations would be based on international customary law (Rothwell, 2016).

In the past, several countries with seas sought coastal jurisdiction and sovereign rights through the claim of a larger coastal zone, economic zone as well as the closure of

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<sup>1</sup>For example, the Copenhagen Convention on the Sound and the Belts, 1857, which regulates the relative legal status of the straits between Denmark and Sweden. The Border Treaty of 1881 between Argentina and Chile, which aimed to regulate the legal status of the Straits of Magellan (Magellan Straits). The 1921 Treaty of Non-fortification and Neutralization of the Aaland Islands of Sweden and Finland to regulate the legal status of the Aaland Strait. The 1936 Treaty of Montreux which defined the legal status of the Dardanelles, Bosphorus and Marmara Straits.

archipelagic waters. These are pursuits where the forces of the past demonstrated the unharmed passage of warships, both submarines and from the surface, as well as the general crossing of the straits. The relevant interpretation and adoption of UNCLOS III on straits used for international navigation was not adopted in a calm climate but within a more general environment of political and legal conflict.

### **The history of UNCLOS III on international straits**

Within the framework of the international conference on the law of the sea, the main axis that was held in relation to the international straits was that of the harmless passage that connects the open sea and the territorial sea, among the characteristics of these straits<sup>2</sup>.

The increase of the sea area to 12 nm and a new regime of passage through the straits as proposed by the draft articles<sup>3</sup> was a reality followed by the relative intention for the existence of a conventional regulation, where the passage between these straits is the proposed solution. The institution of harmless passage and the status of crossing the straits<sup>4</sup> was intended to serve the

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<sup>2</sup>Office for Ocean Affairs and the Law of the Sea, Straights Used for International Navigation, Legislative History of Part III of the United Nations Convention on the Law of the Sea, Vol. II, p. 2.

<sup>3</sup>Draft articles on the territorial sea and straits submitted by the United Kingdom, A/CONF.62/C.2/L.3, chapter III, artt. 1-12: [https://legal.un.org/ilc/texts/instruments/english/commentaries/8\\_1\\_8\\_2\\_1956.pdf](https://legal.un.org/ilc/texts/instruments/english/commentaries/8_1_8_2_1956.pdf)

<sup>4</sup>According to Art. 3 of the Draft articles on the nature and characteristics of the territorial sea submitted by Spain, A/CONF.62/C.2/L.6. "the straits forming part of

interests of the powers<sup>5</sup>, also reaching the relevant comment regarding the Fiji Islands, which they raised<sup>6</sup> and tried to link the free passage for the use of warships. It is about an application, where the form of passage between international straits tries to make a specific definition for the coastal state and the territorial sea.

In parallel, Algeria proposed a free passage for state and commercial ships<sup>7</sup>. It serves for commercial purposes, in straits that connect parts of the open sea. It is about the use of international shipping, that is regulated by international conditions. International navigation defined that each strait would be connected to two parts of the open sea, where

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the territorial sea, regardless of whether they are used for international navigation (...). Articles 20-23, Part II. Right of Innocent passage through straits used for international navigation, Draft articles on navigation through the territorial sea, including straights used for international navigation submitted by Malaysia, Morocco, Oman and Yemen, A/CONF.62/C.2/L.16. "(...) they adopted harmless passage and considered the passage of merchant ships as such. At the same time, they imposed a prohibition on the establishment of shipping channels, facilities or devices in such straits by the coastal State, if these could endanger or impede the passage of ships, with the obligation of the coastal state to publicize obstacles in such straits for which has knowledge (...) of the possibility for the coastal state to request the cooperation of the states concerned and the appropriate international organizations for the placement and maintenance of maritime facilities and aids in international straits (...)."

<sup>5</sup>Paragraph 3 of the relevant section entitled: "Territorial sea and straits" in the Declaration of the Organization of African Unity on Law of the Sea subjects at its 21st (1973) and 23rd (1974) ordinary sessions.

<sup>6</sup>Draft articles relating to passage through the territorial sea submitted by Fiji, A/CONF.62/C.2/L.19:

[https://legal.un.org/diplomaticconferences/1973\\_los/docs/english/vol\\_3/a\\_conf62\\_c2\\_119.pdf](https://legal.un.org/diplomaticconferences/1973_los/docs/english/vol_3/a_conf62_c2_119.pdf)

<sup>7</sup>Draft articles on straits used for international navigation; semi-enclosed seas, submitted by Algeria, A/CONF.62/C.2/L.20: <https://www.cia.gov/readingroom/docs/CIA-RDP82S00697R000300030014-9.pdf>

customary law is used for international navigation<sup>8</sup>. The Dominican Republic<sup>9</sup> was above the opinion of a previous negotiation of the states on waterways and straits before the start of the related works and the installations that create pollution for the coastal state. For Iraq<sup>10</sup> the freedom of navigation that connects two parts in an open sea and is a semi-enclosed sea constitutes a maritime zone of 12 nm, where due to the increase from the coastal state it extends towards the open sea. For Canada<sup>11</sup> the international straits, as a natural passage between land and territorial sea, as well as for most countries, have reached the point where it traditionally belongs to international shipping.

The final international committee proceeded with 13 unofficial documents circulated by various delegations and presented after continuous negotiations at its 46th Session<sup>12</sup>.

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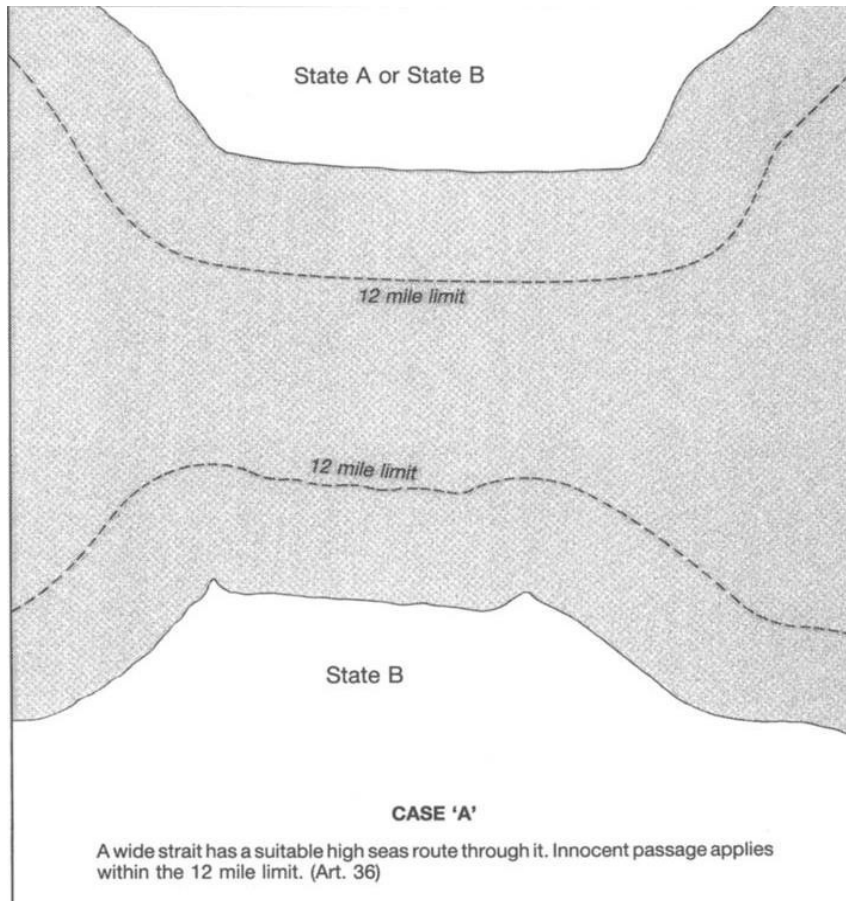
8Draft article on definition of straits used for international navigation submitted by Algeria, Bahrain, Iraq, Kuwait, the Libyan Arab Republic, Qatar, Saudi Arabia, the Syrian Arab Republic, Tunisia and the United Arab Emirates. A/CONF.62/C.2/L.44: [https://legal.un.org/diplomaticconferences/1973\\_los/vol3.shtml](https://legal.un.org/diplomaticconferences/1973_los/vol3.shtml)

9Draft article on straits and waterways submitted by the Dominican Republic. A/CONF.62/C.2/L.59: [https://legal.un.org/diplomaticconferences/1973\\_los/vol3.shtml](https://legal.un.org/diplomaticconferences/1973_los/vol3.shtml)

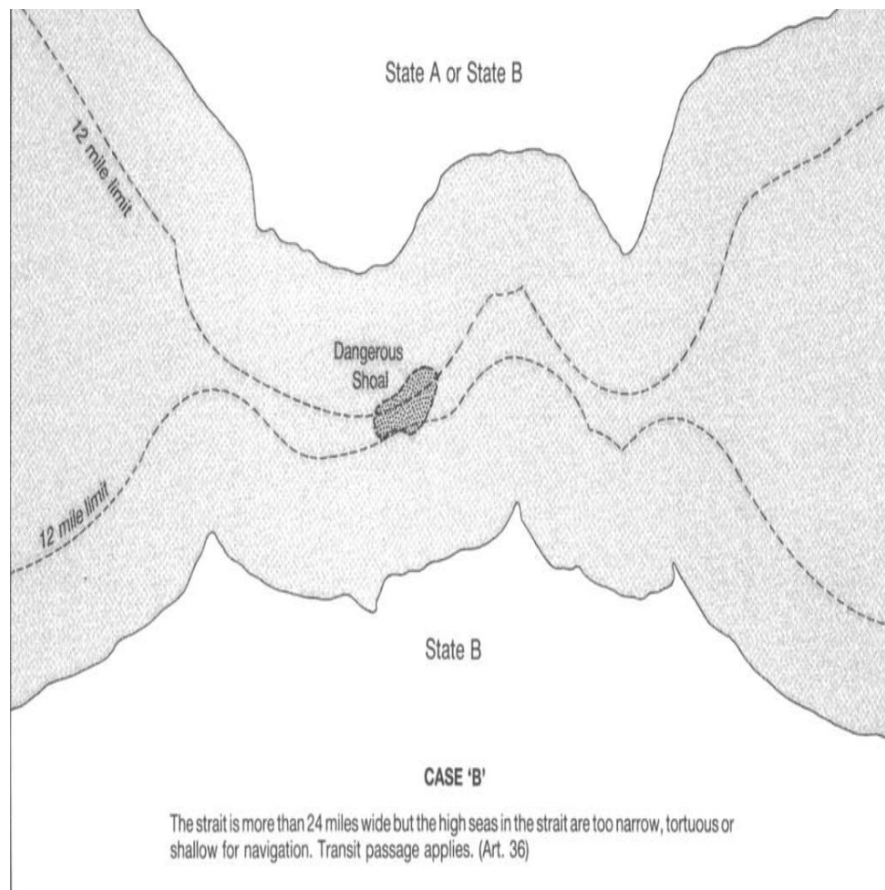
10Draft articles on enclosed and semi-enclosed seas submitted by Iraq. A/CONF.62/C.2/L.71 and Add. 1-2: [https://legal.un.org/diplomaticconferences/1973\\_los/docs/english/vol\\_2/a\\_conf62\\_c2\\_sr38.pdf](https://legal.un.org/diplomaticconferences/1973_los/docs/english/vol_2/a_conf62_c2_sr38.pdf)

11Draft article on a definition of an international strait submitted by Canada. A/CONF.62/C.2/L.83.

12Working paper of the Second Committee: main trends.

**Map 1:Example of wide strait**

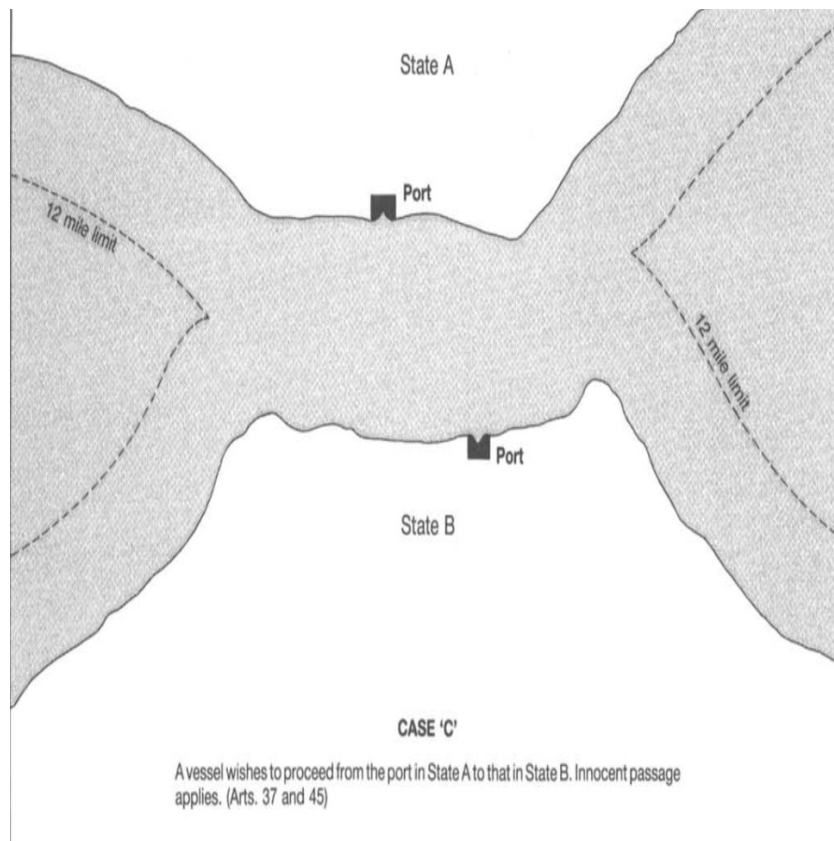
**Source:** Maps submitted by the UK State to the Second Commission in 1974 (The article number in brackets corresponds to that of UNCLOS III). S.N. Nandan και D.H. Anderson, *Straits Used For International Navigation: A Commentary On Part III of the United Nations Convention On the Law of the Sea 1982, Modern Law of the Sea*, Marinus Nijhoff Publishers, Leiden/Boston, 2008, pp. 158-161. Available at: <http://bybil.oxfordjournals.org>

**Map 2: Example of straits with more than 24nm wide**

**Source:** Maps submitted by the UK state to the Second Commission in 1974 (The article number in brackets corresponds to that of UNCLOS III). S.N. Nandan και D.H. Anderson, *Straits Used For International Navigation: A Commentary On Part III of the United Nations Convention On the Law of the Sea 1982, Modern Law of the Sea*, Marinus Nijhoff Publishers, Leiden/Boston, 2008, pag. 158-161. Available at: <http://bybil.oxfordjournals.org>, 24-5-12.

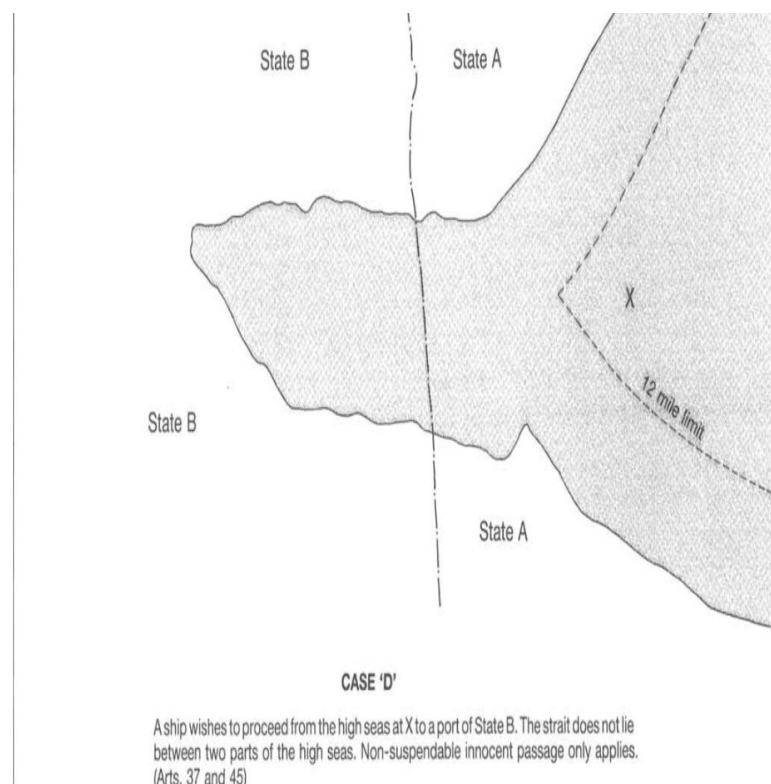


### Map 3: Example of innocent passage in a strait



**Source:** Maps submitted by the UK state to the Second Commission in 1974 (The article number in brackets corresponds to that of UNCLOS III). S.N. Nandan και D.H. Anderson, *Straits Used For International Navigation: A Commentary On Part III of the United Nations Convention On the Law of the Sea 1982, Modern Law of the Sea*, Marinus Nijhoff Publishers, Leiden/Boston, 2008, pag. 158-161. Available at: <http://bybil.oxfordjournals.org>, 24-5-12.

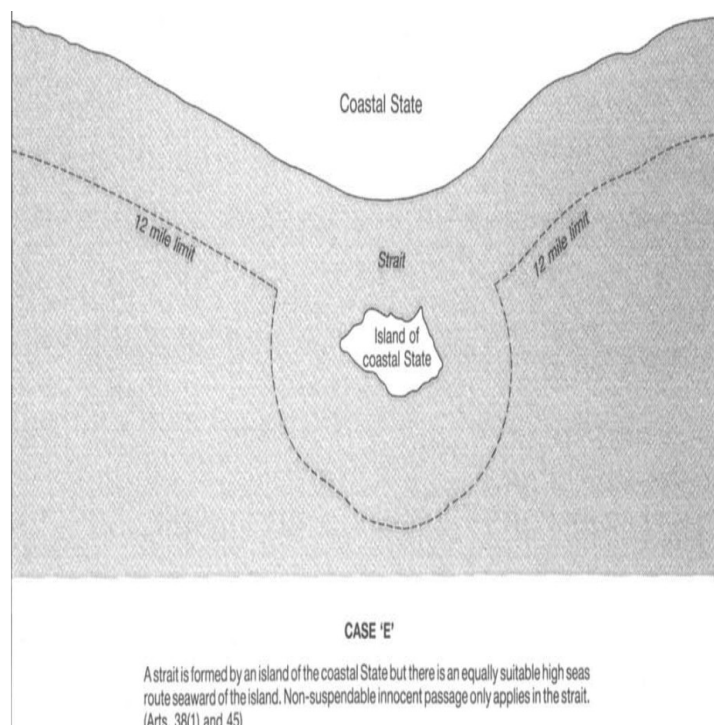
**Map 4: Example of non-suspendable innocent passage in a strait**



**Source:** Maps submitted by the UK state to the Second Commission in 1974 (The article number in brackets corresponds to that of UNCLOS III).. S.N. Nandan και D.H. Anderson, *Straits Used For International Navigation: A Commentary On Part III of the United Nations Convention On the Law of the Sea 1982, Modern Law of the Sea*, Marinus

Nijhoff Publishers, Leiden/Boston, 2008, pag. 158-161.  
Available at: <http://bybil.oxfordjournals.org>, 24-5-12.

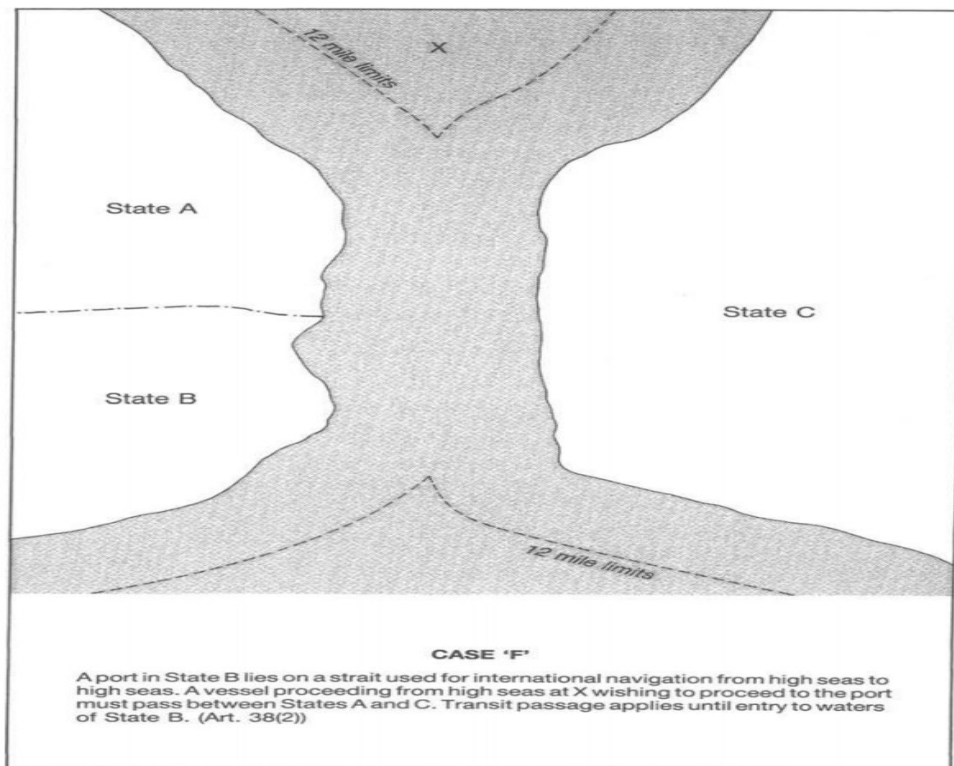
**Map 5: Example of a strait formed by an island of coastal state**



**Source:** Maps submitted by the UK state to the Second Commission in 1974 (The article number in brackets corresponds to that of UNCLOS III). S.N. Nandan και D.H. Anderson, *Straits Used For International Navigation: A Commentary On Part III of the United Nations Convention On the Law of the Sea 1982, Modern Law of the Sea*, Marinus Nijhoff Publishers, Leiden/Boston, 2008, pag. 158-161.

Available at: <http://bybil.oxfordjournals.org>, 24-5-12.

**Map 6: Example of a strait used for international navigation from high seas to high seas**



**Source:** Maps submitted by the UK state to the Second Commission in 1974 (The article number in brackets corresponds to that of UNCLOS III). S.N. Nandan και D.H. Anderson, *Straits Used For International Navigation: A Commentary On Part III of the United Nations Convention On the Law of the Sea 1982, Modern Law of the Sea*, Marinus Nijhoff Publishers, Leiden/Boston, 2008, pag. 158-161. Available at: <http://bybil.oxfordjournals.org>, 24-5-12.

The Second Committee at the 47th Session held on 18 March 1975 and included the proposals of Caracas as well as the consultations of other working groups to report further consultations and advisory groups with a view to addressing the proposals for a regime for the straits used in international navigation between the principle of harmless passage that had to do with the territorial sea.

The customary character for several states was a requirement to be preserved as well as used for the new categories of straits. In particular, the case of the Strait of Corfu (Liakopoulos, 2020)<sup>13</sup> as well as Art. 16 (4) of the Convention on the Territorial Sea and the Contiguous Zone of 1958 (Tanaka, 2023) constituted a legal situation where only the straits between the sea would be able to override the status of internal waters from the straight lines adopted by several states and were below the same status proposed by the Fiji Islands and the United Kingdom.

The text included movement and harmless transit, the general regulations contained in articles 34, 35, 36, and transit related to articles 37 to 43 (Caminos, Cogliati-Bantz, 2014). Regarding the EEZ before it became part of the relevant negotiation and article

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<sup>13</sup>ICJ, Corfu Channel Case (UK v. Albania) (Merits) [1949] ICJ Rep 4 [28]: “(...) recognized and in accordance with international custom that states in time of peace have a right to send their warships through straits used for international navigation between two parts of the high seas without the previous authorization of a coastal state, provided that the passage is innocent. Unless otherwise prescribed in an international convention, there is no right for a coastal state to prohibit such passage through straits in time of peace (...)”.

44 which referred to safe passage had to do with straits used for international shipping in an area of the high seas, perhaps an EEZ and another area of the high seas or the EEZ or the territorial sea of another foreign state. Between these straits, the transit movement was not applied, as well as the harmless passage.

In the specific new text, titles were now given to each of the articles, as the word “Part” had been replaced by the word “Chapter” and the expression “strait state” by a more general expression, i.e. “bordering states with the straits”.

In article 37, the relevant “island-continental trunk” rule was adopted with the relevant “Messina exception”, which did not allow transit traffic, especially if the strait was formed by an island state bordering the strait as well as its mainland trunk, if it exists from the side of the sea side of the island as a corridor of an open sea or a corridor in the EEZ that is related to the hydrographic and maritime characteristics. It is about the straits related to Messina which connects Messina to Sicily and the Pemba strait which is located in Tanzania and is governed by the regime of harmless passage as defined by article 43, par. 1, lett. a).

Also in article 39, the proposal from the side of the International Chamber of Shipping was adopted, where the states bordering the straits will communicate their own proposals for the relative

determination or substitution of sea lanes or shipping lanes as different forms of traffic within the appropriate international organization before determining or replacing them.

**Map 7: The strait of Messina between the continental trunk of Italy (Calabria) and Sicily**



**Source:** [http://en.wikipedia.org/wiki/Strait\\_of\\_Messina](http://en.wikipedia.org/wiki/Strait_of_Messina)

The fifth and sixth sessions were again held in New York between August and September 1976 and from May to July 1977. In these discussions we saw informal proposals submitted by the USA, Malaysia, Morocco, Turkey, Israel, Yemen, from some of the Arab states and from the International Maritime

### Organization.

In this new text the titles and the states themselves, the section on transit according to articles 43 and 44, and the harmless passage of article 45 were included. The word “Chapter” was now replaced by the word “Part”. The most interesting amendment was article 40 which was related to transit. It has prohibited field work by foreign ships and scientific hydrographic ships during their passage through the straits and with the agreement of other states that are related to the narrows. Articles 233 and 234 of UNCLOS III were adopted by the third committee (Solski, 2021) where states would border between measures of imposition and serious threat of contamination (Tanaka, 2023).

At the next and seventh meeting that took place between May and September 1978 in New York, more priority was given to solving problems related to the straits that would be used by international shipping following proposals of Spain, Oman, Yemen and Ecuador. The problem for some states was the issue of transit<sup>14</sup>, where unilaterally it had been included in negotiations that would push for a system of harmless transit that would allow measures to be taken for the coastal state and for the pollution of the marine environment, as well as the

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<sup>14</sup>We can say that France kept a position not so strong as it did not accept the creation of negotiations for specific changes to the proposals that have to do with the Canadian delegations and the text under negotiation that had to do with accidents at sea that cause pollution in sea space.



difficulties regarding the enclosed and semi-enclosed seas.

From the eighth meeting that took place in Geneva in March/April 1979 and in New York in July/August 1979 we only had the point of view of Yugoslavia. A proposal that was repeated in the first meeting that took place in March/April 1980 and in Geneva in July/August 1980 to find solutions for the proposals given in the previous meetings as well as the express wording from the status of free navigation and overflight of the straits of article 36, where according to Turkey it should have incorporated the convention given that Malaysia concerned the legal status of the straits which was related to the Malacca-Singapore straits (Lalonde, 2015).

The relevant EEZ delimitation would constitute some kind of barrier to overflight and shipping, where transit through the straits as established by international conventions, is an exception to the general rules that would satisfy the straits located in Denmark and Sweden, as well as between Sweden and Aaland Islands.

The passage of ships and the overtaking of aircraft concerned warships and territorial waters<sup>15</sup>, where after a written statement, Spain<sup>16</sup> supported the harmless passage as a suitable element that could be used for the ICJ and for the Corfu Strait case. Transit was entitled to include the right of passage over seas and

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15A/CONF.62/WS/11.

16A/CONF.62/WS/12.

straits used for international shipping. The encroachment of the maritime space of the sea by aircraft could not be accepted.

The actions were prohibited for aircraft and the determination of the counties and regulations bordering the straits only determined the sea and the application of transit.

Of course the state aircraft had nothing to do with the ICAO security measures, creating a danger for the aircraft in the straits and the countries of the straits as well as their related populations. A liability regime, as well as the creation of a clause under articles 38, 39 and 42 to safeguard the interests of coastal states and articles 221 and 223, would be unfair to states bordering on straits, as it mainly argued the delegation of the Federal Republic of Germany<sup>17</sup>, in accordance with article 38, which would determine the economic side for the existence of a sea route that would be easy for transit (Tanaka, 2023).

The tenth meeting that took place between March/April 1981 and ended in August of the same year<sup>18</sup> aimed at the adoption of an overall text with partial agreements and a consensus related to the negotiations and for the adoption of a more general agreement. The relevant preparation of a more general contract draft was aimed at continuing the negotiations related to the

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<sup>17</sup>A/CONF.62/WS/16.

<sup>18</sup>Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea, Straits Used for International Navigation*, Legislative History of Part III of the United Nations Convention on the Law of the Sea, Volume I, United Nations-New York, 1992, 124ss.

adopted criteria<sup>19</sup>, as well as including the recommendations of the committee on the draft as well as the continuation of the negotiations in order to make other amendments to the final text. Amendments were made to introduce new concepts.

Within this context, the eleventh meeting took place in New York in April 1982 and from September to December 1982 in Montego Bay. The text had reached a final maturity to enter into force and the introduction of new subjects was rather futile since the participating states were already enough. The time period was enough for several states to discuss and participate as well as to change old positions and add new corrections to the final draft of the agreement<sup>20</sup>.

The most important proposals that were given were from the side of Israel and Greece. Israel specifically considered the legal status of the straits to be particularly important, as the exception of safe passage contained several elements with political aims, mainly regarding the passage of the straits other than those regulated by the international treaty.

On the other hand, Spain, regarding the overflight of aircraft during the relevant transit, as well as the taking of the relevant measures to protect the straits from environmental pollution such as petroleum, had been placed above the system of responsibility. The passage of the straits affects the legal status

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19A/CONF. 62/62.

20A/CONF. 62/L.109 and A/CONF. 62/L.123.

of the waters within the straits. For this reason, it was noticed not to include the word “normally” in article 39, paragraph a) because there was no specific explanation for security measures related to military aircraft. The only security measures that would be related to military aircraft were wireless communication for shipping safety with criteria that would be subjective to Art. 42, paragraph 1 (b) of the regulation.

These measures would have to do with the application of international regulations that would depend on the flag state. So, it was changed the word “applicable” to “generally accepted” in article 211, par. 2. It was proposed in article 233 that there be the relative harmonization with the provisions of article 34 and the status of transit that affects the legal status of the waters that is related to the legal status enclosed in them (Yturriaga, 2021)<sup>21</sup>. Changes and corrections have been included from articles 39, 41 and 42. Specifically in article 39, par. 1 (a) it was added that special aircraft should have a width equal to that of an international runway that a large aircraft can move. In article 41 par. 8 it was provided regarding the jurisdiction of the states bordering the straits to indicate the rules of air traffic and promotion for safe and efficient crossing of the straits<sup>22</sup>. In

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21“(...) respect and particularly for the aircraft, the width of a strait should be at least equal to the width of an international airway (...)”.

22“(...) 8. States bordering straits under their sovereignty shall designate predetermined air routes and prescribe air traffic procedures for air navigation in straits, for the purpose of promoting the safe and efficient passage of aircraft in transit (...)”.

article 42, par. 1 (a), they were included the regulations and procedures related to what ICAO provides for the safety of air and strait traffic<sup>23</sup>. Before the final vote on the amendments, the delegations of the states had the right to withdraw amendments and submit new ones in order to reach a final consensus arguing that the amendment to article 39, paragraph 3 (a) proposed by Spain should not have happy ending<sup>24</sup>.

On 30 April 1982, at the 182nd General Assembly, Resolutions I to IV (UNCLOS III) were adopted among a series of negotiations with the relevant changes having a political significance rather than a legal one in accordance with the statements of the Israeli delegation. UNCLOS III was signed on 10 December 1982 in Montego Bay, Jamaica and fully entered into force on 16 November 1994 as a conference that would codify and remain in the history of international law as the longest text in the history of international treaties.

### **Definition of straits and of the various “categories” used for international shipping**

The straits and international navigation, beyond a geographical issue, also has a legal entity where it constitutes the status of passage as determined by relative rights that have to do with the

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23“(…) (a) The safety of navigation and the regulation of marine traffic as well as the safety of air traffic and the rules, regulations and procedures of the International Civil Aviation Organization as provided in article 41 (…)

24A/CONF.62/L. 136.

coastal states related to the use of the straits.

The geographical and functional element related to the straits is well connected with the Geneva Convention of 1958, where it devoted only a general provision to the straits and article 16 (4), which is related to the safe passage of a state like this was adopted by UNCLOS III, i.e. the increase of the territorial sea to 12 n.m. and the institution of transit that is related to transit. In the straits, the term international navigation is used, where it keeps unaffected the increase of the territorial sea to 12 n.m. thus affecting the quality characteristics and the passage status of the waters that will enclose them.

According to UNCLOS III there are six types of straits used in international shipping and the legal status is determined between different shipping institutions. Initially, according to Art. 35 (a) of UNCLOS III the straits were made from internal waters of the coastal state and from the application of straight baselines before being applied as a method of delimitation which according to article 7 were not internal waters.

The adoption of straight baselines is not a decisive criterion for international straits. The status quo before the adoption of the demarcation method has to do with the harmless passage or transit movement according to each case.

There are the problems that have to do with international conventions. Art. 35 (c) of UNCLOS III deals with straits

related to international navigation and the legal status of regulations beyond existing treaties, international conventions. This type of straits are exempted from the regulations that have to do with UNCLOS III and the transit status when the conditions provide for it. We are talking about the case of the Daradanelian, Bosphorus and Marmara straits<sup>25</sup>, the straits of Denmark and the straits of Magellan<sup>26</sup>. As regards the case of the strait of the Aaland Islands between Sweden and Finland<sup>27</sup>, the strait of Gibraltar<sup>28</sup> and the strait of Tiran in the Gulf of Aqaba<sup>29</sup>, there is strong doubt as to whether they are subject to a status that has to do with the specific article. The provisions of article 311 (2) are included among the international treaties, that is, those that have to do with agreements related to the UNCLOS III convention. The Peace Treaty between Egypt and Israel in 1979 also enters this context.

According to article 36 the straits where they have to do with international shipping and their internal channel or lane leading to the open sea or EEZ there is a territorial sea of the same, as well as from another state, open sea or EEZ. As far as the high seas channel or lane or EEZ is concerned, it has to do with the

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<sup>25</sup>According to the treaty of Copenhagen of 1857.

<sup>26</sup>Treaty between Argentina and Chile of 1881.

<sup>27</sup>Permanent Demilitarization Treaty of 1921.

<sup>28</sup>Anglo-French Declaration of 1904. specifically the Strait of Gibraltar which had to do with the provision of Art. 37 of UNCLOS III, as well as the Declaration concerning the neutrality of land and not the regime which has to do with transit.

<sup>29</sup>Peace Treaty between Israel and Egypt of 1979. Regarding the Straits of Tiran, it had to do with the provision of Art. 45 (1) (b) of UNCLOS III.

status of the high seas and the status of safe passage. Within the framework of this category is the “strait of Florida” which is related to the strait between the USA and Cuba. It is a strait where the width of the shores is greater than twice the territorial sea that has to do with the coastal states.

There is no reference to the width of the channel to the open sea that the coastal states have and is enclosed within the strait. For the straits of this category, in the event that ships want to pass through the territorial sea that is around the channel, the status of safe passage is applied. In the high seas channel, the special characteristics it has are those that prevail in the territorial sea and in the relative transit status.

Article 36 allows us to talk about a new category of straits where it restricts the straits used by international shipping, which essentially narrows the definition of straits, because of free communication a strait according to article 36 is not such. In a geographical strait for international navigation there is no special treatment by international law and in the part related to the open seas or EEZ the generally accepted principle of the freedom of the seas, as well as of the coastal zone and the coastal states, are applied. Also, the principle of harmless passage is used as a common rule for all territorial seas.

The specific article does not treat the open sea channel or EEZ as unsafe for shipping as a whole as well as in part as the



recognition is a geographical strait that has been used for international navigation and covers the geographical and the legal criteria, which are accepted from the recognition of a natural strait, used by international shipping. A narrow framework for UNCLOS III should include all the features that have to do with article 36 (Tanaka, 2023).

According to article 37, the straits connect the part related to the open sea or EEZ, as well as another part of the open sea or EEZ within the maritime area of the territorial sea as well as more littoral states, such as the institution of transit. The specific straits, as well as the continental territory, that is related to the coastal state of the island and the state that deals with maritime and hydrographic data of navigation outside the islands, must have the same suitability as those of the continental territory that belong to another state.

Such a strait is the strait of Gibraltar between Spain and Morocco as well as the strait of Malaga between Singapore, Indonesia and Malaysia. This category of straits that have been used in international shipping affect the rights of transit in the coastal state. Specifically, Japan blocked the implementation of the straits of strategic interest, which limited the area of the territorial sea to the strait that has to do with an open sea channel that obliges the aircraft and submarines of third countries to be far from the authorities.

There are also the cases of application of transit. Within the inland waters that lie in the Northwest Passage for Canada and Russia, as well as the US, there are several opposing views. Article 38 (1) relates the mainland territory of the state and the island to the sovereignty of the state itself. In the particular strait the opposite side is open from the islands and the seaway through the high seas or EEZ that is suitable for the geographical and maritime characteristics prevailing in the status of unimpeded safe passage, in accordance with article 45 (1) (a).

Messina in Italy and Kalmar Sound in Sweden are part of this category. It is about the straits, where according to article 38 (1), the unimpeded harmless passage is applied to the opposite side that is located off the island, where the seaway is open sea or EEZ, i.e. a special side that is suitable for the hydrographic and maritime features and turns into one transit status, where these characteristics related to international shipping do not exist.

A further category, according to article 45 (1) (b), is related to the strait connecting the high seas or EEZ, where there is a passage through the territorial sea of one or more states, i.e. with the territorial sea of another state. This is how the regime of unimpeded harmless passage applies when the strait is dead-end, as in the case of the Strait of Tiran in the Gulf of Aqaba. In this strait the coastal states can suspend the passage only during the

period of armed conflict.

Article 35 (a) deals with archipelagic straits related to internal waters as well as the adoption of straight baselines where internal waters already were and is linked to delimitation in accordance with Art. 7 of UNCLOS III. Consequently, archipelagic straits have to do with the relative application of archipelagic baselines and are regulated by the provisions of UNCLOS III. The specific transit regime deals with harmless transit and archipelagic transit which is equivalent to the relative transit traffic in them.

As for the mixed straits, these are related to their geophysical form, and the UNCLOS III convention has created certain transit regimes, such as what has to do with Corfu and Albania. The movement of ships from the north through the strait towards a southern direction is related to the transit status, where the strait is formed by Albania and the island of Greece, Corfu.

The transit status has nothing to do with the unimpeded harmless transit, where the mainland state is Greece. Submarines can surface and strait-bound aircraft do not need clearance to continue flying. The range of the straits is large and the violation of the national airspace of the coastal state will not overfly the Greek land territory. In this category belong the international straits, that include the territorial sea and the part of the high seas or EEZ with the archipelagic waters of another

state, as is the case of East Timor, where it does not fall under the provisions of UNCLOS III. The proportional application of article 45 and the unimpeded harmless passage are applied from the straits connected to the territorial sea, which has to do with the open sea and the EEZ.

### **Analysis of the relevant general provisions for straits**

As far as the general regulations are concerned, the relevant regulations are related to certain parts of the sea that have not taken part in the field of the more specific regulations of UNCLOS III. The basic principle was included in article 34, according to which the regime of passage through straits used for international navigation should not in other respects affect the legal status of the waters forming such straits or the exercise by the states bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil. The sovereignty or jurisdiction of the states bordering the straits is exercised pursuant to this article and by other rules of international law.

The general provisions include articles 34, 35, 36. A first observation is that the internal waters of the neighboring countries have not been included, which belong to the maritime space of the coastal states in accordance with the application of the straight baselines, but were converted in internal waters in

the status of straits for international navigation and the right of passage. The waters are open sea, part of the EEZ and the straits are governed by the existing international conventions.

More specifically, article 35, is related to the straits that form the internal waters in two subcategories of straits, that belong to the internal waters and to everything that has to do with their geographical and geophysical analysis. This means that they were part the regulatory framework of Part III (Lòpez Martin, 2010)<sup>30</sup>. The straits that became internal waters after the application of straight baselines and within the delimitation framework based on Art. 7 of UNCLOS III even though they are internal waters that still have international characteristics for navigation.

From article 35, par. (b) and 36 it is confirmed that in relation to each pocket located in the open sea or EEZ the relevant straits used for international navigation should remain intact. In this way, Part III is applied to a very large area of straits as in the case of the former Yugoslavia, where there was a particular consideration for the claims of the EEZ, Italy and Albania, and the increase to 12 nm would have resulted to include the area that was in Otranto, Italy. Article 35, para. c), article 25 of the

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<sup>30</sup>Certain delegations of the states such as Canada, Russia, Ukraine accepted and argued for historic waters where, in accordance with the law of the sea, they create historic international waters and historic gulfs. These are bays where they have been regulated in a conventional way, while the straits are not. The historical narrow accords with the American delegation are at odds with the principles of international law.

1958 Convention and the preparatory work will differentiate the regimes of the straits.

The straits for international shipping will be regulated by treaties where the application regime will affect its passage in whole or in part. In this way, the possibility of contractual regulation is recognized in contracts where they will have general acceptance. These are arrangements where the agreements and arrangements will be internationally unacceptable.

Article 311, paragraph (2) regulates the status of the straits where it is compatible with what is provided by UNCLOS III and has to do in a limited way with the application and the applicable treaties that have an applicable basis of article 35 (c) (Tanaka, 2023).

### **The right of transit**

In UNCLOS III, the terms “transit”<sup>31</sup> and “en route”<sup>31</sup> support the passage of surface vessels and the flight of aircraft as well as the movement of submarines in diving. This specific term should be distinguished from innocent passage, where it is a traditional status of passage from the territorial sea of foreign ships<sup>32</sup>.

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<sup>31</sup>It is about a relative strait located in Malacca in an area between Indonesia and Malaysia. Since 1971, the two states had declared that the specific strait was an international shipping lane and in this way the harmless passage would need another prior notification. The agreements, which were unofficial between America and Indonesia, finally allowed for the presence of warships and submarines where they could not be compared with any right that comes from international.

<sup>32</sup>Barcelona Convention and Statute on Freedom of Transit of 14th April 1921: <https://www.jus.uio.no/english/services/library/treaties/09/9-04/freedom-transit->

It is a new institution where all the straits use international navigation as an independent phenomenon<sup>33</sup>. The introduction of transit as a free movement and passing through the straits should be evaluated in practice as something new since it was not included in customary law<sup>34</sup>. But is it so?

The term transit is found in Article 1 of the Barcelona Treaty of 1921 and is related to freedom of movement and the status of the high seas in accordance with the Montreux Treaty of 1936. Movement in small straits such as Dover, Gibraltar and Hormuz has nothing to do with transit, i.e. the free movement of ships and submarines in diving, as the free overflight of aircraft and the protection of the environment as *de lege ferenda* we met for the first time in UNCLOS III. The particular view reflects the customary law relevant to the UNCLOS III debates and was not sufficiently supported in fact or in law.

Specifically, Articles 37, 38 and 44 of UNCLOS III inform us about the transit movement as an exercise of the freedom of navigation and overflight for the speed across the straits that are related to areas of the open sea, EEZ and in other areas or EEZ. This is a movement that will be interrupted and blocked by the coastal state with the exception of the passage through the strait where it will target the relevant passage for access, departure

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[statut.html](#)

<sup>33</sup>Article 1, as regards straits.

<sup>34</sup>The coastal states and especially the area where it is located in Spain and Morocco have an opposite opinion.

and return from its shores. The specific exercise of this right does not cover the length of the strait and the conditions in the internal waters during the transit movement and for the harmless passage are the same and do not apply to the coastal state that exercises full sovereignty.

The provisions of UNCLOS III, on the status of transit, have as their exclusive purpose the operation and passage of international shipping in a continuous manner. It is a right of movement related to the criteria of safe passage. The definitions of transit and harmless transit also present some differences. Transit operates from the flag state in the form of passage, while the rule of harmless passage operates from the coastal state as an exception. Submarines in transit move in a dive as they do in harmless transit. Crossing the straits used in international shipping is a transit element. In the new law of the sea, warships and transit have nothing to do with safe passage. In this case, the coastal state prevents harmless passage only through the diplomatic channel, as the prohibition of the use of force is an obligation of the flag state and not a right of the coastal state, with the exception of self-defense. Also, transit has expanded with the shipping routes that were covered by the regime of harmless passage.

According to Art. 38 (3) of UNCLOS III any activity which is not an exercise of the right of transit passage through a strait



remains subject to the other applicable provisions of this Convention. It imposes the necessary measures that prevent the passage of the ship through the strait (Jia, 1995), as they are also applied by article 34 which is based on a customary rule of international law and does not allow the change of the legal status of the waters that are related to the narrows.

As a solution to the harmless passage is the non-violation of article 38 (3) and 34, which allows the application of customary law, i.e. the self-defense measures of surface ships and aircraft. UNCLOS III has other provisions related to the coverage and activity of the violation of article 38 (3), such as articles 233, 263 and 42 (5) (Tanaka, 2023).

Articles 38 (3) and 39 are related to ships and aircraft that have exercised the right of transit movement as well as rapid movement through straits used in international shipping. If there is no such obligation, there is no transit. The prohibition of the threat or use of force imposed by 39 (1) (b) in conjunction with the transit movement that takes place within the territorial sea has the effect that the conditions of article 38 (2) are not relevant and that they do not take place in transit because that doesn't exist. In this way, the application of article 38 (3) for the coastal state can interrupt this relative movement.

The transit is also related to government and military surface vessels, submarines and aircraft. The preparatory works of

article 38 confirm the relevant disagreements of the delegations that participated in UNCLOS III. The specific regulation concerns all ships, aircraft in transit and those that include state and military unlike those that apply to harmless transit and in which many states need some prior notification and consent. Transit is not related to prior notification and consent of the coastal state. The conduct of marine surveys and the exercise of the right is necessary for the permission of the coastal state. Submarines in transit may be submerged and during the harmless transit have the obligation to surface and fly their flag in a conspicuous manner. The “normal” operating mode is also the only one.

The specific way is dependent on relevant circumstances that determine the safe operation of the submarine, such as traffic density, shallow waters, shipping hazards, traffic separation schemes, weather conditions, etc. This is the safest way when their movement is diving.

The passage of large floating vessels-platforms are related to the right of transit traffic and when passing through the strait of the Great Belt are connected to the Baltic and the North Sea. In this strait, Denmark in the past built a bridge to connect two of its islands, Copenhagen and Jutland. This particular bridge does not allow the passage of the largest oil rigs capable of transatlantic voyages. Alternatively, the seaway (the Sound) does not allow

their passage due to depth. Such platforms are manufactured specifically in Finland.

The specific case reached the ICJ in 1991, where it was called upon to rule on such platforms enjoying the same rights of passage as ships and the rights they have can be curtailed by unilateral state action. States build constructions along the straits that were tried to be used for international navigation, as for example the bridge in the strait of the Great Belt. The case was withdrawn from the ICJ before the final decision as both states, Denmark and Finland, reached a bilateral agreement.

The application of narrow forms of separation from the state for air traffic in cases that have to do with the registration and re-registration of aircraft over surface units has as its ultimate purpose the protection of the environment, where most of the times it has failed<sup>35</sup>.

State aircrafts are not prosecuted through criminal jurisdiction in the straits and therefore remain unpunished for violating the internal laws of the relevant states and straits. They claim that the overrun is not transit and is related to state responsibility even though Articles 38 (3) and 42 (5) of UNCLOS III apply. As, according to article 39 (1) (b), the right of self-defense is given. It is an open question whether state aircrafts that are not subject to air traffic regulations are exempt from communication

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35A/CONF.62/L. 123.

regulations.

The same article 39 (3) (b) together with the aviation rules allow aircraft to have relative hearing and frequency determined by the air traffic management authority and the international danger frequency (121.5 MHz).

Civilian aircraft that do not perform controlled flight, have a high international frequency of danger and fall under the violation of the specific article. Government aircrafts are not required to comply with Annexes 10 and 11 of the Chicago Convention. Their uncontrolled flight which is permissible, as well as listening to the international danger frequency since the assumptions are applied in a different way in the specific article. Safety is also imposed by the regulations of article 44, when the coastal states do not hinder the transit movement and do not interrupt the publicity and the risk related to shipping and crossing the straits.

### **The difference between transit and other forms of separation**

As we stated in article 39, ships and submarines are required to comply with other duties applying practices, and prior to UNCLOS III, related to maritime traffic lanes, the international regulation for avoiding collisions at sea and avoidance, reduction of pollution and acceptable international conditions.

Strait states determine sea lanes and determine traffic separation, where necessary for straits used for international shipping and for navigational safety reasons. Determining the replacement of sea lanes and traffic separation plans rests with these states. The specific traffic separation plans and sea corridors are illustrated maps and should be made public.

Substitution routes are still possible with unilateral adoption by the coastal state, and must agree with the conditions for the coastal states as well as the latter submit relevant proposals to the IMO, which is the competent international organization (Lindén, 2007)<sup>36</sup>.

The international organization cannot provide a position on the relevant forms that have been agreed with the coastal states and cannot adopt regulations contrary to UNCLOS III. The technical regulations of the IMO are applied to the coastal states that are members of UNCLOS III as well as through special conventions of the IMO<sup>37</sup>. Specifically, Article 43 has urged coastal states as

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<sup>36</sup>The establishment of Particularly Sensitive Sea Areas (PSSAs) by the IMO in accordance with decisions A.720 (17) of 1991, A. 885 (21) of 1999, A.927 (22) of 2002. we are talking about sea zones where they have to do with the protection of the environment. Specifically in UNCLOS III there is some basis according to Art. 211 (6) of UNCLOS III. This particular article forms the basis for a Special Area with special conditions for marine pollution, namely MARPOL and not for PSSA where there is no answer to any condition.

<sup>37</sup>“(…) rules and rules and standards are very precise technical provisions which cannot be considered as binding among states unless they are parties to the treaties where they are contained. UNCLOS provisions certainly aim at the effective implementation of substantive safety and antipollution rules, but in the end they remain basically jurisdictional provisions, namely, provisions which regulate the features and extent of state jurisdiction but not the enforcement of measures regulated in other treaties. Compliance with IMO rules and standards cannot be dissociated

well as closely related and cooperative users of marine aids to address the reduction, control and pollution from ships. The cost of cooperation should be submitted in the form of tolls on ships, based on articles 38 (1), (2) and 42 (2).

### **Power of states to legislate for straits**

Each state has a legal obligation to legislate on the boundaries of the territorial sea. It is a regulation that is related to article 41 and specifically refers to the applicable international regulations, where in this particular case the term is related to the international regulations agreed by the states regarding the straits<sup>38</sup>.

Specifically, article 42 (1) provides the possibility for the strait states to proceed with the relative possibility of legislation for the safety of navigation and maritime traffic as well as the reduction of pollution, the obstruction of fishing, loading and unloading of goods, money, persons which are against the violation of the legislation and finally not to discriminate against

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from the treaty framework in which these rules and standards are contained. Thus UNCLOS obligations to enforce IMO rules and standards should be understood as operative on condition that parties to UNCLOS also become parties to the IMO conventions where these rules and standards are contained. SOLAS, MARPOL or STCW rules and standards can only be properly implemented if flag and port states multilaterally bind each other in accordance with the terms of these treaties (...)"

<sup>38</sup>Australia imposed use where it would be mandatory for the Torres Straits and not compatible with the provisions of UNCLOS III. As far as the side of the IMO of July 2005 is concerned, the states that have flags and use the ships for navigational services that have to do with Australia for the passage of the straits will have only an advisory character and not a mandatory one.

foreign ships, resulting in the obstruction and limitation of the right of transit passage.

Coastal states in this way will have the possibility to have additional regulations for the safety of navigation, regulation related to maritime traffic and regulations that will be consistent with the provisions of UNCLOS III.

Article 233, after pressure from Malaysia during the negotiations, allowed for the states related to the straits that if a foreign ship other than those referred to in section 10 has committed a violation of the laws and regulations referred to in article 42, paragraph 1(a) and (b), causing or threatening major damage to the marine environment of the straits, the states of the straits to have appropriate measures in accordance with article 38 (3).

UNCLOS III is particularly silent on the exercise of criminal and civil jurisdiction by coastal states over the use of straits in international navigation. Compliance with coastal legislation provides that in accordance with article 42 (5) the case of violation by a ship or aircraft that has immunities for the flag state should bear international responsibility for loss, damage caused to the strait states.

**Suspended safe passage**

When we talk about suspended safe passage we refer to article 45 which has to do with the straits used in international navigation. According to this article there is an application of the status of a suspended safe passage, which is similar to the status of safe passage in the territorial sea. This is precisely how it is recognized in the provision of article 16 (4) of the Geneva Convention of 1958 on the Coastal Zone and the Contiguous Zone.

In addition, coastal states are not entitled to suspend passage in a period of peace which may occur in an armed conflict and when submarines are not legally diving and aircraft may fly over the relevant straits.

**The legal definition of straits concerning international shipping**

Pursuing a transit regime dealing with the legal side of the straits and safe passage in the territorial sea was carried out within the provisions of UNCLOS III. Finding a uniform definition for the straits used for international navigation, certain categories were mentioned where their relevant proposals were taken into consideration. A large number of Arab states referred to the straits where they communicate with parts of the open sea and where, according to international shipping, there is a relevant



usage<sup>39</sup>.

For the state of Canada, where it was related to the exclusion of the Northwest Passage from international straits, it is mentioned:

“(...) international strait is a natural passage between land formations which:  
a) (i) lies within the territorial sea of one or more states at any point in its length and (ii) joins two parts of the high seas (...) b) has traditionally been used for international navigation (...)”<sup>40</sup>.

The United Kingdom was consistent with the international straits, the waterways used in international navigation and the two parts of the high seas.

The states dealing with international straits do not refer to the geographical area but to the relevant legal status. The strait states have not included a common definition of straits following the provisions of UNCLOS III and the relevant analysis, where the views of states and the concept of geographic and legal status are used.

The geographical strait is not related to international navigation and is not considered individually and between straits located in geographical unity forming the sea lane. Art. 37 of UNCLOS III refers to the right of transit, the chain of straits related to international navigation. A geographical formation where it has to do with a strip of sea and consists of internal waters, territorial sea, EEZ or open sea and separates two parts of land with the sea zones such as territorial sea, EEZ or open sea used

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39Doc. A/CONF.62/C2/L.44, 7 August 1974:  
[https://legal.un.org/diplomaticconferences/1973\\_lo/vol2.shtml](https://legal.un.org/diplomaticconferences/1973_lo/vol2.shtml)  
40Doc. A/CONF.62/C2/L.83, 26 August 1974:  
[https://legal.un.org/diplomaticconferences/1973\\_lo/vol3.shtml](https://legal.un.org/diplomaticconferences/1973_lo/vol3.shtml)

for international navigation.

The use according to UNCLOS III of “straits used for international navigation” has to do with the passage, that is to say with the ships of different nationalities and the density that characterizes the strait used for international navigation. Specifically, UNCLOS III allows the right of passage, where the status of the waters, that encloses and distinguishes the straits, has to do with a distinction such as:

“1. Straits to which transit article 35 (a) applies in the event that this was the status of transit before the application of straight baselines, article 36 in the event that in the open sea channel the maritime and hydrographic characteristics are not of the same suitability as those prevailing in the territorial sea surrounding the channel or the open sea strip or EEZ, article 37 and article 38 (1) when there is no sea route through the open sea or EEZ on the opposite side off the island of similar suitability in terms of maritime and hydrographic characteristics for international navigation]; 2. Narrowly applicable non-imposed safe passage [Article 38 (1) in conjunction with article 45 (1) (a), article 45 (1) (b)]; 3. Strait to which the regime of harmless passage applies [Article 35 (a) in the case that this was the transit regime before the application of straight baselines and article 36 in the territorial sea]; 4. Strait to which the regime of open passage applies sea (Article 36 on the high seas or in the EEZ) and finally; 5. Straits enjoying special regulation provided for, in whole or in part, by long-standing international conventions [Article 35 (c)] or which, if not apply for a long time, are compatible with UNCLOS III [Article 311 (2)] (...)”.

Overall, the maritime strait, as a geographical demarcation, has to do with a strip of sea created by the straight baselines, territorial sea, EEZ or open sea connecting maritime zones or archipelagic waters, where they serve the passage in a special status, in transit passage, in harmless passage, as well as in unimpeded harmless passage or in the freedom of the high seas in accordance with the legal status of the waters that enclose the

specific strait.

### **The use of the straits for terrorist activities**

Since 2002, the IMO has tried to insure shipping within the framework of Safety Of Life At Sea-S.O.L.A.S. chapter XI-2 and International Ship and Port Facility Security Code-ISPS code)<sup>41</sup>.

Since 2004 ships and international ships are supported by port facilities. Since 2006, with the chapter V of S.O.L.A.S., the identification and tracking of certain ships by the state that carries its flag and the port of destination for the open coast, outside the territorial sea where the ship is sailing, is called Long Range Identification and Tracking-L.R.I.T.<sup>42</sup>.

The settings of S.O.L.A.S. since 2008 they have been associated with L.R.I.T., i.e. a multilateral agreement on the management of information, search, rescue for the states and for the parties to S.O.L.A.S.. The provision of information by the flag state and the jurisdiction to allow the provision of information, i.e. the time, position, dates, ship's identity in coastal states, it is

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<sup>41</sup>After the decision 1373 (2001) of the Security Council of O.H.E. issued another decision with the number A.924 (22) of the IMO which has to do with the examination of the measures that concerned the illegal acts related to the safety of navigation.

<sup>42</sup>The American delegation had decided in a timely manner the possibility for a coastal state to calculate the risk where the ship would approach the shores and could take the relevant measures to reduce the threats. Specifically, the ability for a ship to identify the US at a distance of up to 2,000 nautical miles. it was aimed at the possible evaluation of the relevant threat for taking measures and dealing with it.

allowed up to a distance of 1000 nautical miles. These are rights that are created, confirmed beyond those contained in UNCLOS III. The specific provision of information for ships that cross the straits provide that:

“(...) regulation or any requirements adopted by the Organization in relation to L.R.I.T. should prejudice the rights or obligations of states under international law or the legal regimes of the high seas, the exclusive economic zone, the territorial seas or the straits used for international navigation and archipelagic sea lanes (...)”<sup>43</sup>, as a right of control where the position of the ship is within the internal waters and the exercise within the territorial sea is disputed.

The institution of transit through the straits for international shipping is concerned with the freedom of navigation and the absence of control in accordance with articles 38 (1) and 44. The provisions of articles 38 and 39 have prove the violation of Article 313 (3) of UNCLOS III. In this regard the authorities have stated that:

“(...) “port state”, the right of control cannot be exercised when the ship (regardless of flag) is in internal waters of a third state. It was considered to constitute an intervention incompatible with international law (...) (Report, note 33) the issue of the right of control remains when the ship is within the territorial zone of a third state. USA, UK and several EU countries (by tacit acceptance) and Turkey is in favor. Brazil, China, Russia, Cyprus and Greece opposed (...) the Report in favor of the position of the (...) minority recorded the following: 1. That any regulations should not be interpreted as altering, affecting or violating the rights of state in the territorial zone (Report, note 36); 2. That despite the establishment in the Regulation of the right of control of the “port state” in the territorial zone of a third state, it should be possible to enjoy the rights of the “territorial state”, as established by other

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<sup>43</sup>Provisions on LRIT vis-à-vis other provisions of international law, MSC/81/5-1.doc.

international conventions, e.g. the UN Convention on the Law of the Sea of 1982 (Report, note 37) (...)"

What we conclude from the previous paragraph is that the international community for information towards the coasts and for independent states are within the position where the ship is located.

The ability to further and complete information about the coasts from states that have the right to know the location of the ship is a practice that has existed for decades. A tension of the right of way where the different zones and straits with the utilization of information lead in this direction. The security of coastal states is also used in international shipping. The safeguard clauses as well as the intervention of ships in the various maritime zones are based on Art. 311 (3) of UNCLOS III<sup>44</sup>.

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44“(...) delegation of Greece reserved their position on the proposed SOLAS regulation on LRIT and stated that, in their view, the SOLAS Convention was operating under the umbrella of UNCLOS and as a result the SOLAS Convention had to be in line with the provisions of UNCLOS. Greece also stated that UNCLOS article 311 (3) prevented states from assuming rights or obligations incompatible with the legal framework of UNCLOS. In their view, the proposed SOLAS regulation went beyond any jurisdictional rights of States, other than those of the flag State and the territorial coastal State. Therefore, Greece maintained its doubts whether requesting a ship navigating in the territorial sea of another State to provide LRIT information was an action which did not constitute interference prohibited by UNCLOS since it was prejudicial to the sovereignty of the coastal state over its territory. Greece also maintained the same doubts with respect to requesting a ship transiting the coast of a state outside the limits of its territorial sea since this request from the coastal state was contrary to the freedom of navigation that ships enjoy on the high seas (...)"

### **Maritime zones of Greece and use of the straits in international shipping**

The geographical position and the issue of demarcation of zones in the Greek area, especially of the territorial sea up to 12 nm it has only one specific aspect related to the transit movement. The possibility of jeopardizing the security of the country and the study of the sea zones around Greece as well as the international straits in these zones has the consequence of leading to the increase of the territorial sea.

Many of the straits after the decision of the strait of Corfu are for the Greek reality beyond special treaty regimes, privileged passages for private pleasure boats that do not meet the operational criteria and do not constitute passages for warships, commercial outfits of third countries. We are thus talking about an internationalization of the strait invoked by the state and they have to do with the Automatic Identification System (AIS)<sup>45</sup>, where as the main routes of the Greek seas that, in accordance with the act, have been used by international shipping, are:

“(1) Through the Straits of Corfu, the Ionian Sea, the Straits of Zakynthos, (2) through the Straits of Kythira, the Myrtle Sea, the Cyclades, the North Aegean Sea, the Dardanelles, the Marmaras and the Bosphorus, (3) through the Carpathian Strait, the Ikarian Sea, the northern Aegean Sea, the Dardanelles Straits, the Marmaras and the Bosphorus, (4) through the Dodecanese, the Ikarian Sea, the northern Aegean Sea, the Dardanelles Straits, the Marmaras and the Bosphorus”.

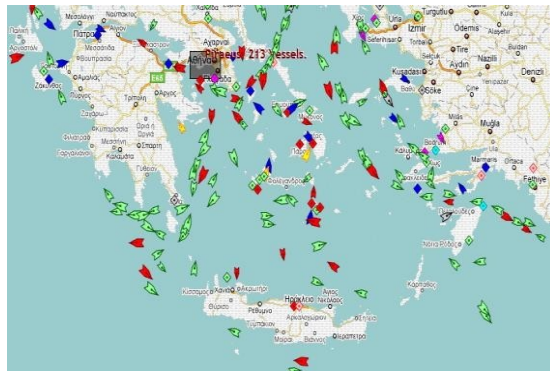
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<sup>45</sup>These are stations that do not cover the Greek seas in an absolute way due to the range they have for the operational situation and show from the relative size that they do not have very accurate data.

This shipping flow is rather normal since the Greek seas connect the Adriatic with the Central Mediterranean (via the Ionian Sea and the Kythera Strait), the Black Sea (via the Dardanelles, Marmara and Bosphorus Straits), as well as the Eastern and Southeastern Mediterranean through the Dodecanese and the Carpathian Strait.

The flow of international navigation is located between axes that have to do with maritime traffic and the Greek seas. It is a flow related to geographical straits and internationalizes the straits used for international navigation. It is not a random recording but it has to do with the 6 nm which are related to the territorial sea of Greece, where through the use of the A.I.S. and the relevant observation in the relevant field, it is pointed out that if there is a reason to find a deposit for hydrocarbons, this movement will be diversified and “channeled” through other geographical straits that can be characterized as straits and that are also used for international navigation since they will meet the whole functional criterion.

**Maps 8 and 9: Axis of maritime traffic in the Greek seas. These axes resulted from the use of the A.I.S. system as well as from long-term observation. The color code indicates the type of merchant ship (blue for passenger ships, green for trucks, red for tankers, yellow for high-speed ships, blue for tugboats).**



**Source:** <http://syros-observer.aegean.gr/A.I.S./default.aspx?level0=100,13-1-2010> and <http://syros-observer.aegean.gr/A.I.S./default.aspx?level0=100,15-1-2010>.



**Map 10: Shipping traffic in the Greek seas in real time. The color code indicates the type of merchant ship (blue for passenger ships, green for trucks, red for tankers, yellow for high-speed ships, blue for tugboats)**

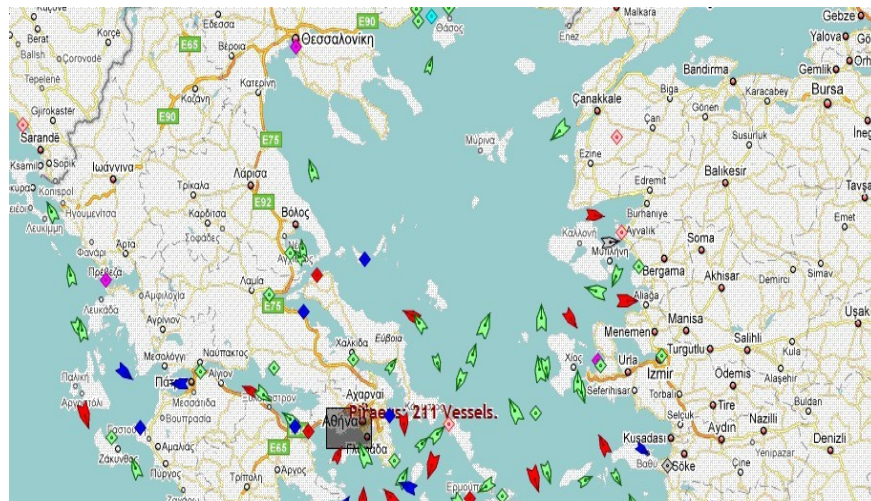


**Source:** <http://syros-observer.aegean.gr/A.I.S./default.aspx?level0=100,5-2-2010>

As can be seen from the map, the movement of shipping seems to be indicative because of the sea lanes where in the specific sea areas of Greece they are a means of using lanes for international shipping. From the data of commercial ships of the A.I.S. system it turns out that most of them do not carry the

Greek flag.

**Map 11: Shipping traffic in the central and northern part of the Greek seas in real time**



**Source:** <http://syros-observer.aegean.gr/A.I.S.,14-1-2010>

It is about a use of the sea lanes in areas where the Greek seas are presented as indicators of the use of the sea lanes, where for international shipping they are related to commercial ships. From the A.I.S. system it turns out that most do not have the Greek flag.

Within this context, in a more specific analysis, we should say that international shipping in the Greek area is served by the maritime area between Corfu and around the islands, the continental area of Albania, the maritime area between

Kefallonia and Zakynthos, the strait between Zakynthos-Peloponnisos and Strofados-Peloponnisos. As for the peculiar strait between the island of Erikoussa and Albania (a/a 8), where the width reaches 13.2 nm. From a legal point of view it is related to article 37 and allows transit.

As for the Corfu-Epirus strait (a/a 4) it is related to article 38 (1), i.e. a strait formed by the continental territory of a state and the island is related to the sovereignty of the state itself. The areas between Ereikousa and Albania, as well as Corfu and Epirus, are two large straits where the mixed strait of Corfu creates several problems for the specific article of UNCLOS III. The navigation related to its northernmost part is related to article 37, i.e. to the territorial sea of Greece and Albania as well as the southernmost side where, according to article 38, it forms the body of Greece. Submarines start from the north side which is related to diving and emerge towards the surface as aircraft do not have relevant legalization.

**Map 12: Straits used by international shipping in the Ionian Sea**



**Source:** <http://www.ellinikos-stratos.com/arthra/eex.asp>

Regarding the entrance from the Cretan sea and Myrtoos through the straits of Elafonisos (a/a 27), Kythera (a/a 26) and Antikythera (a/a 21) we can highlight the following. The strait of Elafonisos, which is 4.8 nm wide it serves the application of article 38 (1) and is connected to an island that belongs to Greece, namely Elafonisos where, according to the shipping and

hydrographic characteristics are located off Kythera, and have the same suitability as those located in the straits of Elafonisos.

The strait of Kythera is 17.8 nm wide, together with the strait of Elafonisos, where they form busy sea routes for the Greek seas, i.e. the entry and exit gate from the Greek seas where they have an application relationship with article 37 and they allow transit traffic through the military units of the third countries, which continue their relative flight as they are obliged to return because any other maneuver will mean a violation of the country's national airspace.

On the other hand, in the open sea related to the port of Albania, article 45 (1) (b) could be applied. Specifically, the strait of Kythera is related to article 47 which is located between the islands of Kythera and Antikythera. They also form other smaller islands such as the rocky island of Pori, which essentially forms a total volume of 17.8 nm width of the strait and together constitute the territorial sea of Greece and the strategic passage.

From the southernmost side where the strait of Antikythera is located, it reaches a width of 18 nm and article 36 is applied as a channel of the open sea between the territorial sea of Greece. The traffic in the strait that has a channel through the open sea does not have shipping traffic in relation to the strait of Elafonisos and Kythira because the sea route, that is related to

commercial shipping due to weather conditions, requires the continuation to the Myrtle Sea as well as the southwest side of the Aegean Sea which is on a shorter route.

Regarding the shipping traffic, this is related to the northern side and specifically to the Myrtoos Pelagos, where there is a passage between the Peloponnese and Parapola, Falconera and Antimilos and a final outlet, through the strait of Antimilos and Falconera (a/a 71), as Parapola and Falconera (a/a 72), through the straits of Agios Georgios (a/a 70) towards Piraeus, as well as through the straits of Kea (a/a 81), Kythnos (a/a 83), Serifos (a/a 88), Sifnos (a/a 89) as well as towards the strait of Kafirea (a/a 112) with an exit towards the northern Aegean and with reverse movement. The flow followed shows movement through the Cretan sea, between the Cyclades and the straits of Kimolos (a/a 93), as well as Milos/Polyaigos-Folegandros (a/a 94), Thiras-Ios (a/a 75) and Heraklion-Ios (a/a 97) Amorgos-Anhidros (a/a 74 - Figure 3.7) and with reverse movement.

The strait between Attica and the island of Agios Georgios, which is 10.6 n.m wide, is related to article 38 (1) and as such the regime related to suspended safe passage prevails. As for the southern side, i.e. the strait of Parapola and Falconera (a/a 72) it is related to article 36 where it gives the possibility of the relative movement towards the channel of the open sea which has a relative formation between them.

In the area of Cyclades where they are related to the circular straits and some of them to parts of the open sea are related to the straits of international navigation and article 37 (a/a 74, 75, 81, 83, 88, 89, 93, 94, 97), i.e. with the transit movement. The specific straits are related to military units of third countries and with a movement pointing towards the Marmara, Bosphorus, the Dardanelles Straits, the straits of Kea with a width that reaches 8.7 nm and Kafirea (Cavo Doro) with a relative width of 5.8 nm and with a relative passage to the North Sea and the Dodecanese (Figure 3.7).

Specifically, the latter are related to the movement to and from the southeastern Mediterranean as well as the ports of Turkey (Ünlü, 2002). International navigation in this way has a relative channel through the straits of Kasos (a/a 63), Karpathos (a/a 64), Rhodes (a/a 87), Sirna-Sofrana (a/a 58), Astypalaia-Syrna (a/a 57), Nisyros-Syrna (a/a 49), Amorgos-Astypalaia (a/a 55), Leros-Levitha (a/a 54), Keros-Amorgos (a/a 51), Tilos-Symi (a/a 46), Tilos-Halki (a/a 45), Nisyros-Tilos (a/a 44), Kos-Nisyros (a/a 43), Kos-Turkey (a/a 42), Kalymnos-Turkey (a/a 38), Leros-Farmakonisi (a/a 39) and Farmakonissi-Turkey (a/a 40).

In particular, the straits located in the Carpathians and in Kasos have a relative width of 26.3 and 23.8 nm, and enclose a channel that reaches the open sea. They are also related to article 36.

Maritime traffic it is more of a sea route for war outfits of third countries and for areas of strategic importance. Within this context, the strait of Rhodes, which has a width of 9.6 nm, does not allow traffic between those located in the Dodecanese and Turkey due to weather phenomena.

The straits of Syrna-Sofrana, Amorgos-Astypalaia, Leros-Levitha, Nisyros-Syrna, Tilos-Symi and Leros-Farmakonissi are related to article 36. Also, the straits of Astypalaia-Syrna, Keros-Amorgos, Tilos-Halki and Nisyros-Tilos allow the transit movement. Kos-Nisyros, Kos-Turkey, Kalymnos-Turkey, and Farmakonisi-Turkey straits are related to the passage in the territorial sea of Greece and in the territorial sea with Turkey with ports related to article 45 (1) (b), i.e. in a strait where non-suspended harmless applies transit<sup>46</sup>.

The straits of the Dodecanese as well as the access to the central and northern Aegean can be made through the straits of Samos-Ikaria (a/a 31), Mykonos-Ikaria (a/a 116) and continues towards the Dardanelles, Marmara and Bosphorus Straits from the straits of the islands of Chios-Psara (a/a 105), Chios-Kalogira (a/a 108), Kalogiron-Andros/Tinou (a/a 111) where they pass to the Aegean Sea or through the straits of Chios-Turkey (a/a 107), Oinousson-Turkey (a/a 109), Mytilene (a/a 128) for the port of Mytilene or for ports in Turkey (e.g. Smyrna), Imvrou-Tenedou

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<sup>46</sup>Specifically, Evia has been counted as an island and due to its position as part of the continental body where the strait has to do according to article 38 (1).



(a/a 124) for the relevant shipping that passes to the islands of the Dodecanese and Turkey, such as the relative movement to the Sporades that comes from the straits of Evia-Skyros (a/a 103), Sporades-Skyros (a/a 102), Evia-Skopelos (a/a 104), Skiathos-Magnesia (a/a 101), Kassandra-Thessalia (a/a 38) and towards the ports of Volos and Thessaloniki.

These straits are related to article 36 and they also include the straits of Mykonos-Ikaria with a width of 24.8 nm, Chios-Kalogeri with a width of 27.1 nm, Kalogeri-Andros/Tinos with a width of 22 nm, Sporades-Skyros with a width of 16 nm, related to the article 37 and the Samos-Ikaria straits with a width of 10 nm, Chios-Psara with a width of 9.8 nm, Chios-Turkey with a width of 3.8 nm, Oinousai/Turkey with a width of 3.5 nm, Evia-Skyros<sup>47</sup> with a width of 18.1 nm<sup>48</sup>, Imbros-Tenedos with a width 12 nm where, and in accordance with article 38 (1), the Skiathos-Magnesia strait with a width of 1.9 nm is also included.

From the northern side of the Aegean Sea there are still a small number of straits related to international shipping. These are the straits Samothraki-Imbros (a/a 119), Limnos-Imbros (a/a 121), Lemnos-Agios Efstratios (a/a 122), Limnos-Tenedos (a/a 123). It is a set that has to do with the maritime traffic from the

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<sup>47</sup>It is about the area that has to do with Prasoudi and Skyropoula and as a consequence with the continuation of the rural sea where it has to do with covering the two relevant islands

<sup>48</sup>The relevant Mavria Islands have also been calculated.

northern Aegean and the Dardanelles, the Sea of Marmara and Bosphorus straits that are related to the regime of article 36 and with the exception of the Limnos-Imbros strait which has a width the 11, 4 nm and is related to article 37, i.e. the transit movement. The relative strait between Crete and Gavdos (a/a 19) has a channel to the east and a width that reaches 19.1 n.m and is related to article 36. The recording of the straits also includes the straits of Karpathos, Kasos, Evripos, Elafonisos, Antikythera, Kythira, Corfu, Kafireos, Imbro<sup>49</sup>. In general terms, a more detailed and specific record is followed only for those related to the Aegean Sea.

#### **Straits used for international shipping and increasing territorial sea size**

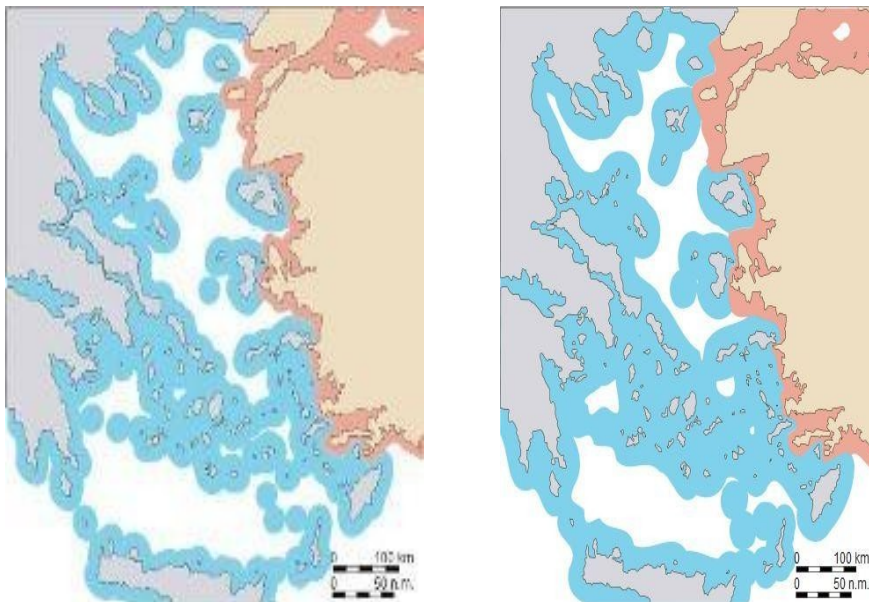
As we understood from the previous paragraph the structure of the islands in the Cyclades and the Dodecanese, the distances from the islands and the continental body are used for the geographical straits that are related to islands that are adjacent to the body of Greece, Turkey and are used by international shipping. The local sea level rise can reach from 6 nm (lex lata) to 12 nm in accordance with UNCLOS III, and with the fact that customary law also applied (Politakis, 1997; Acer, 2003).

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<sup>49</sup>US Naval War College, Annotated Supplement to the Commander's Handbook of Naval Operations, Newport, RI, 1997, pp. 2-84.

The change in this way proves the increase of territorial sea by international shipping in the Greek seas where it limits in this way the open sea in the Aegean Sea

**Maps 13 and 14: Greek territorial sea in the Aegean, 6 n.m wide (top-center), 10 n.m. (bottom-left) and 12 n.m. (bottom-right)**



**Source:**

<http://www.ellinikos-stratos.com/arthra/xwrikaydata.asp>, and <http://www.ellinikos-stratos.com/arthra/eex.asp>

The relative number of straits prove that the status from 6 n.m. of the territorial sea does not cover the Greek territorial sea,

which in fact only 12 straits cover the Greek territory. The relative increase of the local sea from 6 nm at 10 nm it still covers 3 straits while the local sea finally reaches 12 nm. We are talking about a coverage of even more straits from the general set that covers the straits that are created<sup>50</sup>. The increase of the rural sea includes a number of straits that cover the rural sea.

Regarding the movement of commercial and war fleets, the number of straits used reaches fifty-one straits from a set of straits that surround Greece, of which twenty-six are related to article 37 and cover the relevant needs.

The war fleets of third countries do not face the territorial sea related to the 6 nm. For this reason the international shipping and the war fleets that have to do with third countries cannot differentiate the axes and cannot change the territorial sea that has to do with Greece. In this way, however, we have an increase in the territorial sea in accordance with the provisions of UNCLOS III, which is mainly related to article 37, which allows transit movement.

According to the local sea which reaches 10 nm twelve of the 59 straits used have to do with international navigation and Article 37 UNCLOS III, i.e. allow transit. Within this category belong the straits Strofades-Peloponissos (a/a 13), Crete-Gavdos (a/a 19), Antikythira (a/a 21), Leros-Farmakonisi (a/a 39), Tilos-

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<sup>50</sup>Specifically from the straits that have a recognized territorial sea that reaches 6 n.m.

Symi (a/a 46), Leros-Levitha (a/a 54), Amorgos-Astypalaia (a/a 55), Sirna-Sofrana (a/a 58), Antimilos-Falconera (a/a 71), Sporades-Skyros (a/a 102), Samothraki-Imbros (a/a 113) and Limnos-Agios Efstratios (a/a 122).

These are changes related to the Dodecanese, where the relative status changes, as the strategy of the strait entrance changes, as happens in the strait of Antikythera. Of the 24 straits where transit is allowed with the territorial sea at 6 nm and with the increase to 10 nm a total of 38 straits and a transit strait cover is created.

If the territorial sea reaches 12 nm, i.e. in 14 of the 59 straits that are international straits according to article 37, there is an increase in territorial waters to 10 nm where together with the straits of Karpathos (a/a 64) and Mykonos-Ikaria (a/a 116) they constitute a strait that has strategic features and connects the southern side of the Mediterranean Sea with the straits of the Dardanelles, Marmaras and Bosphorus. Consequently, we are talking about an increase in the number of transit lanes, reaching 40 of the 59 straits.

The increase of the territorial sea in areas such as the Cyclades, the Dodecanese, could eliminate the straits used for international shipping. This is a finding that does not have a clear legal basis because UNCLOS III was the result of intense negotiations and agreements for the increase of the territorial sea of the coastal

states which will reach 12 nm and the international straits they cover are related to the rural sea of increasing transit.

The straits that are used by international shipping have a legal personality that is separate and has no relation to the territorial sea, but neither is there a case of being absorbed by it. Thus, the increase of the territorial sea in an international strait can absorb, in accordance with article 36 and 37, the balancing of opposing interests. In this way the straits that are related to the local sea of 6nm, and in accordance with article 37, are connected to the increase of the territorial sea which belong to and are related to article 36 and thus cover the increase of the territorial sea which is mainly referred to article 37. In this way the commercial fleet of the states has great importance for the war outfits passing to and from the Aegean.

The relative extension of the territorial waters certainly has a strategic quality for the straits since it leaves an open sea channel in accordance with Article 36 in order to avoid transit. A relative restriction of the straits from article 37 to 36 for the prohibition of transit movement, as we have seen in practice occurred in the past various areas such as Japan and Korea, Germany and Denmark, Denmark, Sweden and Finland (Oxman, 2000).

Regarding the qualitative characteristics of the international straits that are related to the armed conflict at sea, the relative

hostilities in the waters for the use of the international shipping of neutral countries and the mines are definitely prohibited as long as there are no alternative routes. In parallel, the US Naval Manual (Robertson, 1992) expressly states that:

“(...) international law as reflected in the 1982 Law of the Sea Convention provides that belligerent and neutral surface ships, submarines and aircraft have a right of transit passage through, over, and under all straits used for international navigation. Neutral nations cannot suspend, hamper, or otherwise impede this right of transit passage through international straits (...) Belligerent forces transiting through international straits overlapped by neutral waters must proceed without delay, must refrain from the threat or use of force against the neutral nation, and must otherwise refrain from acts of hostility and other activities not incident to their transit (...) Belligerent forces in transit may, however, take defensive measure consistent with their security, including the launching and recovery of aircraft, screen formation steaming, and acoustic and electronic surveillance (...) Belligerent forces may not use neutral straits as a place of sanctuary nor a base of operations, and belligerent warships may not exercise the belligerent right of visit and search in those waters (...)”<sup>51</sup>.

The number of international straits in Greece has several problems in the armed conflict that will affect security at the regional and international level as well as the coastal states.

### **Straight baselines as a method of delimiting sea zones used for straits in international navigation**

One of the most important demarcations in the right of the sea is the straight baseline, which also has as its purpose the straits for international shipping. According to Art. 35 (a) of UNCLOS III the straits related to the internal waters of a coastal state after the

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<sup>51</sup>U.S. Department of the Navy, Office of the Chief of Naval Operations, Law of Naval Warfare NWP-9, para. 7.3.5.

application of straight baselines and before its application as a method of delimitation, according to article 7, retain the transit for application and conversion in inland waters.

Straight baselines are not the only criterion for demarcating international straits. Transit and the adoption of the relevant demarcation method is harmless transit or transit according to each case. The application of straight baselines is mandatory for the application of Art. 7 of UNCLOS III. It is an obligation where the practice of states uses delimitation in accordance with international law.

For Greece, the use of the method of straight baselines in the Aegean sea from Greece and Turkey is of particular importance because it includes the gulfs related to Lesbos, the gulf of Xiros and the sea area between Baba Burun, Imbro and Tenedos with the end result of blocking the Dardanelles Straits of the Sea of Marmara as well as the Bosphorus. The specific demarcation has not affected the transit status of the Imbros-Tenedos strait (a/a 124) and thus the combination of Art. 35 (a) with Art. 37 of UNCLOS III is the basis of the transit movement through the relevant strait.



**Map 15: Turkey's straight baselines (with red color)**



**Source:** US Department of State, Limits in the Seas. No 32, Straight Baselines. Turkey, 25 March 1971. Available at: <http://www.state.gov/documents/organization/61548.pdf>

**The use of straits for international ships and for sea zones related to military outfits in Greece**

The war fleets, in contrast to the merchant fleets, are often classified as inaccessible because the axes of movement of the shipping in the Greek seas are also accompanied by the ulterior purposes of the warships that have to do with the strategic interests of the great naval powers and the coastal states, since the movement of commercial ships has contributed to the existence of international straits where the state has invoked them.

The purpose of the war fleets and the naval forces is the continuous movement without being forced towards the territorial sea and the south-eastern Mediterranean, the central, western Mediterranean and the straits of the Dardanelles, the Marmara and the Bosphorus between the sea zones that surround Greece and not the relative stay in these. The warships of third countries needlessly remain in such zones without any purpose of movement that can be used for other purposes by simply passing through.

The purpose of naval fleets and for coastal states is to maintain, create security and safeguard state territoriality. The possibility of exit from naval stations both in the territorial sea and in the sea of the coastal state which is protected but not with harmless passage but with transit movement does not allow business

management (Oxman, 2000). The provision of UNCLOS III has not decided at any stage before and after negotiations for something like this. The extension of the right after article 7 (6)<sup>52</sup> extends to the territorial sea which reaches 12 nm but without any result.

From what we understand is that the practice of the war fleets and the great naval powers, as well as the Black Sea states and the coastal state in the Aegean and Turkey does not directly and indirectly affect the defense and security of the coastal states as well as the relative movement to and from the straits connected with the Dardanelles Straits, Marmaras and Bosphorus and through the Aegean Sea which does not affect rights and which recognizes the last of the coastal states, even when their movement has to do with anchorages.

In this way, the notification at the inter-alliance level as well as the principle of reciprocity prove the problematic relations that often exist between states, as in the case between the Aegean and Turkey. The straits have international characteristics and are a challenge for Greece as the constant behavior of a demonstrated jealousy of acquiring the territory of others, third parties, is an object of conflict not resolved even within international rules (Lott, 2022).

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<sup>52</sup>The relevant application for the straight baseline method has to do with cutting off the territorial sea from the neighboring state that has to do with the high seas so that the state has access to the high seas and within the internal waters of the first state between i.e. at the limits where harmless passage is recognized.

Greece tried with other states to block the transit movement but without any result because UNCLOS III also allowed the relevant reservations, avoiding consensus only when this is expressly allowed by its articles<sup>53</sup>, and as it has been mentioned:

“(...) the interpretative statements (...) from contested conditions which the state attaches to its consent to commitment and which resemble, from the point of view the one with reservations (...) is a special manifestation of unilateral governmental interpretation with interpretative declarations filed by a contracting party when signing or ratifying an international multilateral agreement. The state depositing the interpretative declaration hereby declares its intention to follow or attribute a certain interpretation to the content of a provision of the convention. In practice, the interpretative statements, which are usually listed in an annex to the official text of the treaty, are very difficult to distinguish from the reservations. Their operation and the legal effects they produce depend mainly on the attitude of the other contracting states to the international multilateral convention (...) either because third states may claim that the interpretative declaration contains a reservation, so it cannot be applied; or because third states will consider that this interpretative statement goes against the letter of the relevant provisions, and as a unilateral action is a source of illegality (...)”.

The validity of UNCLOS III, within the jurisprudence of the ICJ<sup>54</sup>, has a purely political content and does not violate the relevant spirit of its provisions. The functional role of international treaties and their legal weighting consisting of Art. 41 in relation to Art. 42 (1) of UNCLOS III is related to the application aimed at exclusion and modification of its provisions.

In this context, it is noted, in accordance with article 41, that the safety of navigation proposes for the coastal law the determination of the route as well as the relative routes for the

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<sup>53</sup>See Art. 309 UNCLOS III.

<sup>54</sup><http://www.icj-cij.org/docket/files/132/14987.pdf>

alternative straits that will be governed by the transit regime (Schildknecht, Dickey, Fink, Ferris, 2018). According to UNCLOS III, a coastal state cannot unilaterally be allowed to have relations with archipelagic states<sup>55</sup>.

In this way, the main responsibility lies with the coastal state that determines the relevant routes and follows UNCLOS III which is related to the IMO rules. We could say that a regulation could concern sea lanes and the organization of shipping where the international straits of the Aegean that have been proposed by the IMO and the coastal state, where the straits belong, cannot unilaterally regulate them for this and the possibility of a final conclusion is difficult due to the prevailing strategic position.

### **Concluding remarks**

The number of merchant ships and naval fleets of the coastal states and the naval forces of the Black Sea shipping states may determine the straits of international navigation in a maritime area where the state concerned shall demonstrate the use of the straits and the international ships in accordance with the legal regime related to UNCLOS III.

The problem of straits used for international navigation is a laborious and difficult process, where recording geographic

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<sup>55</sup>See Art. 53 UNCLOS III.

straits and verifying satisfaction of an operational criterion, is even more difficult because a geographic element is not enough. Many straits and seas such as the Aegean are privileged passages for private pleasure crafts.

Greece is full of straits, especially in areas like the Dodecanese and the Cyclades.

Straits of international navigation with a special legal identity where, in an autonomous way, they are not identified with territorial waters as there is no possibility of being absorbed by them. International straits according to article 37 are related to the increase of the territorial sea, while according to article 36 they are covered after the increase of the territorial sea. The transition of the territorial sea of the coastal states to 12 nm, where the international straits are covered with territorial sea, causes an increase of it and is subject to the regime of transit passage.

Within this framework, the need for demarcation with straight baselines does not change the passage status of the relevant straits for international shipping. In this way, international straits such as the Dardanelles are in transit passage.

The war fleets and their relative movement by the fleets of third countries in the maritime zones related to Greece is a movement that sets as the purpose of the war fleets the service of strategic interests for the states, where the use of the axes of movement

has contributed significantly to the existence of the international straits where the state has invoked them. The movement towards the southern side of the Mediterranean Sea as well as towards the central, western Mediterranean Sea and the straits of the Dardanelles, Marmaras and Bosphorus has to do with restrictions imposed by the territorial sea.

The purpose of the naval and air forces that have to do with the coastal states is to maintain security, territorial integrity to achieve the possibility of exit from the territorial sea naval stations, the operational exercise in the open sea and in the countryside, where the Coastal state protects the transit movement with non-harmful passage.

For hydrocarbon exploration, and the continued movement of commercial shipping through international straits, the provisions of UNCLOS III should not be violated. The regulation of aviation and Articles 41, 42 of UNCLOS III beyond a legal basis seeking and balancing the interests of the international community of coastal states.

Overall, the practice of international straits has been a laborious research activity in recent years due to the recording of behaviors that have to do with warlike outfits as the straits of international navigation deal with the increase of the territorial sea and the problems of resolution or not that each state may have and especially for states that are not members of the

provisions of the UNCLOS III (Acer, 2003).



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